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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,372	02/05/2004	Daniel Mercier	RP-01310-US2	3038

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EXAMINER	
BROWN, DREW J	
ART UNIT	**PAPER NUMBER**
3616	

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/771,372	MERCIER ET AL.	
	Examiner	Art Unit	
	Drew J. Brown	3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 February 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5 and 7-14* is/are rejected.

7)☒ Claim(s) *6* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *05 February 2004* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "108" has been used to designate both the drive sprocket and a bearing as shown in Figure 7. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities:

The reference characters "108" and "88" have both been used to designate the drive sprocket as shown in paragraphs 70 and 92-94 in the disclosure.

Also, in paragraph 94, "belt 92" should be changed to --belt 94--.

Appropriate correction is required.

Claim Objections

3. Claims 9 and 14 objected to because of the following informalities:

In each of the claims, "non rotational" should be changed to --non-rotational--.

In letter "h" of claim 14, "output member" should be changed to --power output member--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In the last line of claim 14, "transmitting rotational movement of the output member from the drive member" renders the claim indefinite. It is unclear to the Examiner how the drive member transmits rotational movement to the output member, when it appears the output member translates rotational movement to the drive member. The Examiner suggests changing the phrase to --transmitting rotational movement of the power output member to the drive member--.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 9, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Kondo et al. (U.S. Pat. No. 4,662,471).

With respect to claim 1, Kondo et al. discloses a frame (12), an engine (36, transmission 39) resiliently attached to the frame, generating power, a power output member (41) operatively connected to the engine, at least one front wheel (18) attached to the frame, at least one rear wheel (22) attached to the frame, a handle bar (21) operatively connected to the frame, permitting steering of at least one of the front and rear wheels, a straddle seat (32) supported by the frame, a power transmitting device (47) operatively connected between the power output member and at least one of the front and rear wheels to transmit the power thereto from the engine (Figure 2), and a link (45) operatively coupled between the power output member and the power transmitting device, the link transmitting the power from the power output member to the

power transmitting device (column 3, lines 21-28) such that at least one of angular or axial misalignment between the power output member and the power transmitting device is tolerated (Figure 2, Figure 4).

With respect to claim 9, the link acts as a means for accommodating non-rotational movement of the power transmitting device with respect to the output member and for transmitting rotational movement from the output member to the power transmitting device (column 3, lines 21-28).

With respect to claims 12 and 13, a drive member (46) is disposed on the frame, operatively connecting the power output member to the power transmitting device, wherein the drive member resists translational movement relative to the frame (Figure 2).

With respect to claim 13, a swing arm (56) is pivotally connected to the frame supporting at least one of the front and rear wheels, wherein the drive member resists translational movement with respect to the swing arm (Figure 2).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 2, 3, 5, 7, 8, 10, 11, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al. in view of Onishi et al. (U.S. Pat. No. 4,465,157).

With respect to claims 2, 10, and 14, Kondo et al. discloses the claimed invention as discussed above but does not disclose that the engine is resiliently attached to the frame by rubber mounts, which reduce vibrational transfer between the engine and the frame and allow relative movement of the engine with respect to the frame.

Onishi et al., however, does disclose that the engine is resiliently attached to the frame by rubber mounts (Abstract), which reduce vibrational transfer between the engine and the frame and allow relative movement of the engine with respect to the frame.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Kondo et al. in view of the teachings of Onishi et al. to resiliently mount the engine to the frame using rubber mounts to absorb the vibrations of the engine and to limit the rearward movement of the engine body to an allowable range when the engine is suddenly started (column 1, lines 54-57).

With respect to claims 3 and 11, Kondo et al. discloses that the power transmitting device is selected from a group comprising a belt, a chain, and a drive shaft (47).

With respect to claim 5, Kondo et al discloses a drive member (bevel gear assembly 46) that is disposed on the frame, operatively connecting the link to the power transmitting device, wherein the drive member resists translational movement relative to the frame (Figure 2).

With respect to claim 7, Kondo et al. discloses a swing arm (56) pivotally connected to the frame, wherein the swing arm supports at least one of the front and rear wheels.

With respect to claim 8, the drive member (46) is disposed on the swing arm (Figure 2), operatively connecting the link to the power transmitting device, wherein the drive member resists translational movement relative to the swing arm (Figure 2).

10. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al. in view of Onishi et al., and further in view of Price (U.S. Pat. No. 6,488,110 B2).

The combination of Kondo et al. and Onishi et al. discloses the claimed invention as discussed above but does not disclose that the link is selected from a group comprising a crown spline, a universal joint, a spring shaped metallic member, and a rubber member.

Price, however, does disclose that the link is selected from a group comprising a crown spline, a universal joint (66, Figures 4 and 5), a spring shaped metallic member, and a rubber member.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify Kondo et al. in view of the teachings of Price to use a

universal joint as the link in order to allow bending to compensate for any angular misalignment that may occur.

Allowable Subject Matter

11. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Irimajiri, Newman, Dick, Parker, Hoechst et al., Kurde, Bennett et al., Kramer, and Jencick disclose similar vehicles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew J. Brown whose telephone number is 571-272-1362. The examiner can normally be reached on Monday-Thursday from 8 a.m. to 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Drew J. Brown
Examiner
Art Unit 3616

DJB
3/17/06

DAVID R. DUNN
PRIMARY EXAMINER